

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

DESTINY SWAIN,

Plaintiff,

v.

PHOENIX PERSONNEL, LLC, and
VERSATILE MOLD & DESIGN, INC.,

Defendants.

Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

COMES NOW, Plaintiff Destiny Swain (“Plaintiff”), by and through undersigned counsel, and files this Complaint pursuant to Title VII of the Civil Rights Act of 1964, as amended (“Title VII”) against Defendants Phoenix Personnel, LLC (“Defendant Phoenix Personnel”) and Versatile Mold & Design, Inc. (“Defendant VMD”) (collectively “Defendants”) and shows the Court as follows:

NATURE OF COMPLAINT

1.

Plaintiff brings this action to recover damages for Defendants' violation of her rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et. seq* ("Title VII").

JURISDICTION AND VENUE

2.

Plaintiff invokes the jurisdiction of this court pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) and 42 U.S.C. § 2000e-5(f).

3.

Defendants are subject to specific jurisdiction in this Court over the claims asserted in this action. In addition, the acts and omissions that give rise to Plaintiff's claims occurred in this District. Accordingly, venue in this Court is proper pursuant to 29 U.S.C. §1391 and 42 U.S.C. §2000(e)-5(f).

PARTIES

4.

Plaintiff is a citizen of the United States of America and is subject to the jurisdiction of this Court.

5.

Defendant Phoenix Personnel is qualified and licensed to do business in Georgia, and at all times material hereto has conducted business within this District. Defendant VMD is qualified and licensed to do business in Georgia, and at all times material hereto has conducted business within this District. Defendants are subject to specific jurisdiction in this Court over the claims asserted herein.

6.

Defendant Phoenix Personnel LLC may be served with process by delivering a copy of the summons and complaint to its Registered Agent, W. Michael Waters, 1141 Clark Street, Covington, Georgia 30014. Defendant VMD may be served with process by delivering a copy of the summons and complaint to its registered agent, Frank Heusser, 219 Newborn Rd., Rutledge, Georgia 30663.

ADMINISTRATIVE PROCEDURES

7.

Plaintiff timely filed charges of discrimination against Defendants with the Equal Employment Opportunity Commission (“EEOC”).

8.

Upon Plaintiff's request, the EEOC issued Plaintiff a Notice of Right to Sue with respect to Plaintiff's EEOC Charges, entitling an action to be commenced within ninety (90) days of receipt of the notices.

9.

This action has been timely commenced.

FACTUAL ALLEGATIONS

10.

Defendants are now, and at all times relevant hereto, have been employers subject to Title VII.

11.

Defendant Phoenix Personnel is a staffing company. On or about May 1, 2021, Phoenix Personnel placed Plaintiff to work at Versatile Mold & Design as a machine operator.

12.

On or about November 1, 2021, a worker of Defendant VMD, Chris, sexually assaulted Plaintiff, including grabbing her buttocks and separately on the same day grabbing her on both sides of her body. In addition, Chris stalked Plaintiff to the parking lot of Defendant VMD's workplace at the end of the shift.

13.

Plaintiff complained to her supervisor, Stanley, about what had happened, and Stanley told Plaintiff he would discuss the issue with upper management. Plaintiff later observed Stanley speaking with Chris and Chris then came over and apologized.

14.

Plaintiff subsequently complained to Brent, a person that was involved in hiring Plaintiff, that she did not feel safe working with Chris. Brent stated he would work on getting Plaintiff a spot on a different shift.

15.

Defendants then took Plaintiff off the work schedule. Plaintiff followed up regarding being placed on a different shift and was told that Defendants had nothing for Plaintiff.

16.

Any reasons provided by Defendants for terminating Plaintiff's employment is pretext for unlawful retaliation in response to Plaintiff's protected activity.

17.

As a result of Defendants' unlawful actions, Plaintiff has suffered, *inter alia*, pecuniary and non-pecuniary losses for which she is entitled to recover from Defendants, including lost wages and emotional distress.

18.

Defendant VMD had control and influence over the terms and conditions of the employment for which Plaintiff was hired, including her job duties, supervision, and termination.

19.

Defendant Phoenix Personnel had control and influence over the terms and conditions of the employment for which Plaintiff was hired, including supervision and other human resources functions, and rate of compensation.

20.

Defendants jointly employed Plaintiff and are therefore jointly liable for violating Title VII by the conduct described herein.

CLAIMS FOR RELIEF

**COUNT I: RETALIATION IN VIOLATION OF TITLE VII OF THE CIVIL
RIGHTS ACT OF 1964, AS AMENDED**

21.

Plaintiff re-alleges paragraphs 10-20 as if set forth fully herein.

22.

Plaintiff's engaged in protected activity under Title VII.

23.

Defendants subjected Plaintiff to adverse employment action (to wit, terminating Plaintiff's employment) because Plaintiff engaged in protected conduct. The adverse action to which Plaintiff was subjected would dissuade a reasonable employee from making or supporting a charge of discrimination.

24.

There was a causal connection between the protected conduct and the adverse action.

25.

As a direct and proximate result of Defendants' violations, Plaintiff has suffered economic and non-pecuniary damages.

26.

Defendant willfully and wantonly disregarded Plaintiff's rights, and its actions toward Plaintiff were undertaken in bad faith.

27.

Plaintiff is entitled to punitive damages, lost wages and benefits, compensatory damages, attorneys' fees and costs, prejudgment interest, reinstatement or front pay in lieu thereof, and any other relief available under the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- (a) General damages for mental and emotional suffering caused by Defendant's misconduct;
- (b) Special damages for lost wages;
- (c) Punitive damages based on Defendant's willful, malicious, intentional, and deliberate acts;
- (d) Reasonable attorney's fees and expenses of litigation;
- (e) Trial by jury as to all issues;
- (f) Prejudgment interest at the rate allowed by law;

- (g) Declaratory relief to the effect that Defendant has violated Plaintiff's statutory rights;
- (h) Injunctive relief of reinstatement, or front pay in lieu thereof, and prohibiting Defendant from further unlawful conduct of the type described herein; and
- (i) All other relief to which she may be entitled.

Respectfully submitted, this 11th day of April 2022.

BARRETT & FARAHAANY

s/ V. Severin Roberts
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